



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1193

Introduced 2/9/2005, by Rep. Joe Dunn

SYNOPSIS AS INTRODUCED:

New Act

Creates the Clinical Laboratory Science Practice Act. Provides for the regulation of clinical laboratory practitioners, medical technologists, and medical laboratory technicians through licensure by the Department of Financial and Professional Regulation. Preempts home rule. Effective immediately.

LRB094 09719 RAS 39975 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Clinical Laboratory Science Practice Act.

6 Section 5. Declaration of policy; purpose. It is hereby
7 declared to be a policy of this State that the practice of
8 clinical laboratory science by health care professionals
9 affects the public health, safety, and welfare and is subject
10 to control and regulation in the public interest. It is further
11 declared that clinical laboratories and clinical laboratory
12 practitioners provide essential services to practitioners of
13 the healing arts by furnishing vital information that may be
14 used in the diagnosis, prevention, and treatment of disease or
15 impairment and the assessment of the health of humans. The
16 purpose of this Act is to assure better protection of public
17 health by requiring minimum qualifications for clinical
18 laboratory practitioners and by ensuring that clinical
19 laboratory tests are performed with the highest degree of
20 professional competency by those engaged in providing such
21 services in this State.

22 Section 15. Definitions. The following words and terms
23 when used in the Act shall have the following meaning unless
24 otherwise indicated within the context:

25 "Accredited clinical laboratory education program" means a
26 program planned to provide a predetermined amount of
27 instruction and experience in clinical laboratory science,
28 medical technology, or cytology that has been accredited by one
29 of the accrediting agencies approved by the U.S. Department of
30 Health and Human Services.

31 "Board" means the Clinical Laboratory Science Board

1 appointed by the Secretary of Financial and Professional
2 Regulation.

3 "Categorical technologist" means an individual eligible
4 under this Act who is qualified to perform clinical laboratory
5 testing in one or more categories of laboratory testing, such
6 as microbiology, clinical chemistry, immunology, hematology,
7 immunochemistry, or other areas specified by the Board. The
8 categorical technologist is responsible for the establishment
9 and implementation of protocols, quality assessment, method
10 development and selection, equipment selection and
11 maintenance, and all activities related to the pre-analytical,
12 analytical, and post-analytical phases of testing. The
13 categorical technologist may also direct, supervise, consult,
14 educate, and perform research functions in their specialty
15 area. "Categorical technologist" includes a categorical
16 scientist.

17 "CLIA '88" means the Clinical Laboratory Improvement
18 Amendments of 1988.

19 "Clinical laboratory" or "laboratory" means a site or
20 location in which clinical laboratory tests or examinations are
21 performed.

22 "Clinical laboratory practitioner" means an individual who
23 has the authority to perform clinical laboratory tests.

24 "Clinical laboratory scientist" means an individual
25 eligible under this Act that performs any clinical laboratory
26 test including those that require the exercise of independent
27 judgment. In addition, this individual is responsible for the
28 establishment and implementation of protocols, quality
29 assessment, method development and selection, equipment
30 selection and maintenance, and all activities related to the
31 pre-analytical, analytical and post-analytical phases of
32 testing. The clinical laboratory scientist may also direct,
33 supervise, consult, educate, and perform research functions.

34 "Clinical laboratory technician" means an individual
35 eligible under this Act who is qualified to perform clinical
36 laboratory tests pursuant to established and approved

1 protocols that require limited exercise of independent
2 judgment and which are performed with oversight from a clinical
3 laboratory scientist, medical technologist, technical
4 consultant, supervisor, or laboratory director as defined by
5 the Clinical Laboratory Improvement Amendments of 1988 (CLIA
6 '88) (P.L. 100-578).

7 "Clinical laboratory test" or "laboratory test" means a
8 microbiological, serological, molecular, chemical, biological,
9 hematological, immunological, immuno-hematological,
10 cytological, biophysical, or any other test or procedure
11 performed on material derived from or existing in a human body
12 that provides information for the diagnosis, prevention, or
13 monitoring of a disease or impairment or assessment of a
14 clinical condition. Clinical laboratory testing encompasses
15 the pre-analytical, analytical, and post-analytical phases of
16 testing.

17 "Cytotechnologist" means an individual eligible under this
18 Act who is qualified to process and interpret cellular material
19 derived from the human body delineating data regarding human
20 cytopathological disease. The cytotechnologist performs
21 testing under the supervision of a technical supervisor
22 pursuant to the CLIA '88. The cytotechnologist reviews and
23 interprets gynecological cytology preparations and screens
24 non-gynecological cytology preparations where final review and
25 interpretation is the responsibility of a qualified physician.

26 "Department" means the Department of Financial and
27 Professional Regulation.

28 "Histotechnician" means an individual who is qualified to
29 process cellular and tissue components through methods of
30 selected gross dissection and description, fixation,
31 dehydration, embedding, microtomy, frozen sectioning,
32 staining, and other related procedures and techniques employed
33 in the preparation of smears, slides, and tissues. This
34 specialty also encompasses methods for antigen detection and
35 other molecular hybridization testing methods where the
36 purpose is analysis or quantification of cellular and tissue

1 components for interpretation by a qualified physician. The
2 histotechnician performs testing under the direct supervision
3 of a histotechnologist, technical consultant, supervisor, or
4 laboratory director as defined by CLIA '88.

5 "Histotechnologist" means an individual who is qualified
6 to process cellular and tissue components through methods of
7 selected gross dissection and description, fixation,
8 dehydration, embedding, microtomy, frozen sectioning,
9 staining, and other related procedures and techniques employed
10 in the preparation of smears, slides, and tissues. This
11 specialty also encompasses methods for antigen detection and
12 other molecular hybridization testing methods where the
13 purpose is analysis or quantification of cellular and tissue
14 components for interpretation by a qualified physician. The
15 histotechnologist performs testing under the supervision of a
16 technical consultant, supervisor, or laboratory director as
17 defined by CLIA '88.

18 "Medical technologist" means an individual eligible under
19 this Act that performs any clinical laboratory test including
20 those that require the exercise of independent judgment. In
21 addition, this individual is responsible for the establishment
22 and implementation of protocols, quality assessment, method
23 development and selection, equipment selection and
24 maintenance, and all activities related to the pre-analytical,
25 analytical, or post-analytical phases of testing. The medical
26 technologist may also direct, supervise, consult, educate, and
27 perform research functions.

28 "Medical laboratory technician" means an individual
29 eligible under this Act who is qualified to perform clinical
30 laboratory tests pursuant to established and approved
31 protocols that require limited exercise of independent
32 judgment and which are performed with oversight from a clinical
33 laboratory scientist, medical technologist, technical
34 consultant, supervisor, or laboratory director as defined by
35 the Clinical Laboratory Improvement Amendments of 1988.

36 "Pathologist's assistant" means an individual who is

1 qualified to perform surgical pathology specimen examinations
2 and post-mortem examinations. This specialty also encompasses
3 related functions which are necessary to insure the successful
4 completion or processing of the above. The pathologist's
5 assistant performs testing under the supervision of a qualified
6 pathologist. The functions of the pathologist's assistant
7 shall be to assist a pathologist in arriving at a final
8 diagnosis. Rendering the final diagnosis, however, is the
9 responsibility of a pathologist.

10 "Point of care testing" means clinical testing that is so
11 critical to patient care that it must be performed immediately
12 at or near the patient. Tests meeting this definition provide
13 clinically relevant information that direct therapy, are
14 limited to procedures that produce accurate and precise data in
15 a short period of time, meet the current standards of quality
16 in laboratory science, and comply with all standards of
17 accrediting agencies. The term does not include a clinical
18 laboratory test performed in a physician's office laboratory.

19 "Secretary" means the Secretary of Financial and
20 Professional Regulation.

21 "Waived test" means a simple laboratory examination or
22 procedure, as defined by the CLIA '88 and approved by the
23 Board.

24 Section 20. Exemptions. This Act does not apply to any of
25 the following:

26 (1) A person licensed in this State under any other Act
27 who engages in the practice for which he or she is
28 licensed, providing the Act specifically authorizes him or
29 her to perform laboratory testing.

30 (2) Clinical laboratory practitioners employed by the
31 United States government or any bureau, division, or agency
32 thereof while in the discharge of the employee's official
33 duties.

34 (3) Clinical laboratory practitioners engaged in
35 teaching or research, provided that the results of any

1 examination performed are not used in health maintenance,
2 diagnosis, or treatment of disease.

3 (4) Students or trainees enrolled in a clinical
4 laboratory education program, provided that these
5 activities constitute a part of a planned course in the
6 program, that the persons are designated by title such as
7 intern, trainee, or student, and the persons work directly
8 under (i) an individual licensed by this State to practice
9 clinical laboratory science, (ii) a person exempt from
10 licensure under this Act by item (3) of this Section, or
11 (iii) a licensed physician.

12 (5) A person solely performing waived tests under the
13 Clinical Laboratory Improvement Amendments of 1988 (P.L.
14 100-578).

15 (6) Personnel performing point of care testing
16 provided that, within the point of care testing laboratory,
17 a licensed Clinical laboratory scientist, medical
18 technologist, categorical technologist, clinical
19 laboratory technician, medical laboratory technician, or
20 licensed physician is responsible for all of the following:

21 (A) Designing and providing or supervising the
22 training programs for the point of care testing
23 personnel.

24 (B) Supervising and monitoring the quality
25 assurance and quality control activities of the
26 testing site.

27 (C) Assisting in the selection of technology.

28 (D) Reviewing the results of proficiency testing
29 and recommending corrective action, if necessary.

30 (E) Monitoring the continued competency of the
31 testing personnel. Failure to comply with the above
32 requirements subjects the point of care testing
33 personnel to the loss of the exemption.

34 (7) Histotechnicians and histotechnologists who
35 perform clinical laboratory testing under the supervision
36 of a technical consultant, supervisor, or laboratory

1 director as defined by the CLIA '88.

2 (8) Pathologist's assistants who perform clinical
3 laboratory testing under the supervision of a qualified
4 pathologist.

5 Section 25. License required.

6 (a) Beginning January 1, 2006, no person shall perform or
7 consult regarding clinical laboratory tests or hold himself or
8 herself out as a clinical laboratory practitioner in the State
9 unless he or she is licensed under this Act.

10 (b) All persons performing or consulting regarding
11 clinical laboratory tests on the effective date of this Act who
12 are certified by or eligible for certification by an agency
13 acceptable to the Department and who have applied to the
14 Department on or before January 1, 2006 and have complied with
15 all necessary requirements for application may continue to
16 perform clinical laboratory tests until (1) the expiration of
17 12 months after filing the application, (2) the denial of the
18 application by the Department, or (3) the withdrawal of the
19 application, whichever occurs first.

20 (c) Before January 1, 2008, a person not meeting the
21 education, training, and experience qualifications for a
22 license under this Act may be granted licensure if they have 3
23 years of acceptable experience at the professional level for
24 which licensure is sought immediately prior to the effective
25 date of this Act and submit to the Board the job description of
26 the position that the applicant has most recently performed,
27 attested to by his or her employer.

28 (D) Beginning January 1, 2008, no initial license shall be
29 issued until an applicant meets all of the requirements under
30 this Act and successfully completes a national certification
31 examination authorized by the Department.

32 Section 30. Administration.

33 (a) The Department shall adopt rules consistent with the
34 provisions of this Act for the administration and enforcement

1 thereof and may prescribe the forms that shall be issued in
2 connection with this Act. The rules shall include standards and
3 criteria for licensure and professional conduct and
4 discipline. The Department shall consult with the Board in
5 adopting rules. Notice of proposed rulemaking shall be
6 transmitted to the Board and the Department shall review the
7 Board's response and any recommendations the Board makes. The
8 Department shall notify the Board in writing with an
9 explanation of its deviations from the Board's recommendations
10 and response.

11 (b) The Department may solicit the advice and expert
12 knowledge of the Board on any matter relating to the
13 administration and enforcement of this Act.

14 (c) The Department shall issue to the Board a quarterly
15 report of the status of all complaints related to the
16 profession received by the Department.

17 Section 35. Clinical Laboratory Science Board.

18 (a) There is hereby created a Clinical Laboratory Science
19 Board within the Department of Financial and Professional
20 Regulation which shall consist of 8 persons who have been
21 residents of this State for at least 2 years prior to their
22 appointment and who are actively engaged in their areas of
23 practice. The Secretary may make appointments to the Board from
24 lists submitted by organizations of clinical laboratory
25 science practitioners and organizations of physician
26 pathologists.

27 (b) The Board shall be composed of the following members:

28 (i) one physician certified by the American Board of Pathology
29 or the American Board of Osteopathic Pathology; (ii) 6 clinical
30 laboratory practitioners who, except for initial appointments,
31 hold active and valid licenses as clinical laboratory
32 practitioners in this State, at least one of whom is a
33 non-physician laboratory director, as defined by the CLIA '88,
34 2 of whom are clinical laboratory scientists or medical
35 technologists, one of whom is a clinical laboratory technician

1 or medical laboratory technician, and one of whom is a
2 cytotechnologist; and (iii) one public member who is not
3 associated with or financially interested in the practice of
4 clinical laboratory science.

5 (c) Board members shall serve for a term of 3 years and
6 until their successors are appointed and qualified, except that
7 the initial appointments, which shall be made within 60 days
8 after the effective date of this Act, shall be as follows:

9 (1) A pathologist, a non-physician laboratory
10 director, as defined by the CLIA '88, and 2 clinical
11 laboratory practitioners shall be appointed to serve for 3
12 years.

13 (2) A public representative shall be appointed to serve
14 for 2 years.

15 (3) The remaining members shall be appointed to serve
16 for one year.

17 (d) Whenever a vacancy shall occur on the Board by reason
18 other than the expiration of a term of office, the Secretary
19 shall appoint a successor of like qualifications for the
20 remainder of the unexpired term. No person shall be appointed
21 to serve more than 2 successive 3-year terms.

22 (e) The Secretary shall have the authority to remove any
23 member of the Board from office for neglect of any duty
24 required by law or for incompetency or unprofessional or
25 dishonorable conduct.

26 (f) The Secretary shall consider the recommendations of the
27 Board on questions involving standards of professional
28 conduct, discipline, and qualifications of applicants or
29 licensees under this Act.

30 Section 40. Standards for licensure.

31 (a) The Department shall issue a clinical laboratory
32 scientist or medical technologist license to an individual who
33 meets the qualifications promulgated by the Department,
34 including successful performance on a national certification
35 examination at the clinical laboratory scientist or medical

1 technologist level authorized by the Department and at least
2 one of the following:

3 (1) Baccalaureate degree in clinical laboratory
4 science or medical technology or the equivalent from an
5 accredited college or university and successful completion
6 of an accredited clinical laboratory science or medical
7 technology education program.

8 (2) Baccalaureate degree from an accredited college or
9 university and completion of 36 semester hours in the
10 biological, chemical, or medical laboratory sciences in
11 addition to or part of the baccalaureate degree and
12 successful completion of an accredited clinical laboratory
13 science or medical technology education program or
14 successful completion of a 50-week or more military medical
15 laboratory training program.

16 (3) Baccalaureate degree from an accredited college or
17 university and completion of 36 semester hours in the
18 biological, chemical, or medical laboratory sciences in
19 addition to or part of the baccalaureate degree, certified
20 as a clinical laboratory technician or medical laboratory
21 technician, and completion of the equivalent of 2 years of
22 full-time clinical laboratory work experience within the
23 last 4 years. This experience must have included a minimum
24 of 4 months in each of the 4 major clinical laboratory
25 disciplines (chemistry or urinalysis, hematology,
26 immunohematology, and microbiology).

27 (4) Baccalaureate degree from an accredited college or
28 university and completion of 36 semester hours in the
29 biological, chemical, or medical laboratory sciences in
30 addition to or part of the baccalaureate degree and
31 completion of the equivalent of 4 years of full-time
32 clinical laboratory work experience within the last 8
33 years. This experience must have included a minimum of 4
34 months in each of the 4 major clinical laboratory
35 disciplines (chemistry or urinalysis, hematology,
36 immunohematology, and microbiology).

1 (b) The Department shall issue a categorical technologist
2 license to an individual who meets such qualifications as
3 promulgated by the Department, including successful
4 performance on a categorical examination offered by a national
5 certification organization authorized by the Department and at
6 least one of the following:

7 (1) For the categories of microbiology and chemistry,
8 (i) a baccalaureate degree from an accredited college or
9 university, (ii) successful completion of 30 semester
10 hours in the biological, chemical, or medical laboratory
11 sciences, and (iii) one year of full-time experience within
12 the last 10 years in the category for which licensure is
13 sought or successful completion of a structured training
14 program that is under the auspices of an accredited medical
15 technology or clinical laboratory science education
16 program in the category for which licensure is sought.

17 (2) For the categories of hematology, immunology, and
18 immunochemistry, (i) a baccalaureate degree from an
19 accredited college or university, (ii) successful
20 completion of 30 semester hours in the biological, chemical
21 or medical laboratory sciences, and (iii) 2 years of
22 full-time experience within the last 10 years in the
23 category for which licensure is sought or successful
24 completion of a structured training program that is under
25 the auspices of an accredited medical technology or
26 clinical laboratory science education program in the
27 category for which licensure is sought.

28 (3) A masters or doctorate in a chemical, biological,
29 or medical laboratory science from an accredited college or
30 university and 6 months of full time acceptable clinical
31 laboratory experience or clinical laboratory training
32 within the last 10 years in the category for which
33 licensure is sought.

34 The Department may establish other categorical
35 technologist licenses as necessary, provided that the licenses
36 require a baccalaureate or graduate degree in an appropriate

1 field, clinical training or work experience, and national
2 certification.

3 (c) The Department shall issue a clinical laboratory
4 technician or medical laboratory technician license to an
5 individual who meets such qualifications as promulgated by the
6 Department, which shall include successful performance on a
7 national certification examination at the clinical laboratory
8 technician or medical laboratory technician level authorized
9 by the Department and at least one of the following:

10 (1) Associate's degree or 60 semester hours from an
11 accredited post-secondary academic institution and
12 successful completion of an accredited clinical laboratory
13 technician or medical laboratory technician education
14 program.

15 (2) Associate's degree or 60 semester hours from an
16 accredited post-secondary academic institution with 24
17 semester hours of college course work in the biological,
18 chemical, or medical laboratory sciences, including 6
19 semester hours of chemistry and 6 semester hours of biology
20 and successful completion of a 50-week or more military
21 medical laboratory training program.

22 (3) Associate's degree or 60 semester hours from an
23 accredited post-secondary academic institution with 24
24 semester hours of college course work in the biological,
25 chemical, or medical laboratory sciences, including 6
26 semester hours of chemistry and 6 semester hours of biology
27 and successful completion of an approved laboratory or
28 clinical assistant education program, and completion of
29 the equivalent of one year of full-time clinical laboratory
30 work experience within the last 2 years. This experience
31 must have included a minimum of 3 months in each of the 4
32 major clinical laboratory disciplines (chemistry or
33 urinalysis, hematology, immunohematology, and
34 microbiology). Laboratory work experience must be under
35 the supervision of a certified clinical laboratory
36 scientist or medical technologist, certified clinical

1 laboratory technician, or medical laboratory technician.

2 (4) Associate's degree or 60 semester hours from an
3 accredited post-secondary academic institution with 24
4 semester hours of college course work in the biological,
5 chemical, or medical laboratory sciences, including 6
6 semester hours of chemistry and 6 semester hours of biology
7 and completion of the equivalent of 2 years of full-time
8 clinical laboratory work experience within the last 4
9 years. This experience must have included a minimum of 3
10 months in each of the 4 major clinical laboratory
11 disciplines (chemistry or urinalysis, hematology,
12 immunohematology, and microbiology). Completion of one
13 year of the laboratory work experience must be under the
14 supervision of a certified clinical laboratory scientist
15 or medical technologist, certified clinical laboratory
16 technician, or medical laboratory technician.

17 (d) The Department shall issue a cytotechnologist license
18 to an individual who meets such qualifications as promulgated
19 by the Department, which shall include successful performance
20 on a national certification examination at the
21 cytotechnologist level authorized by the Department and a
22 baccalaureate degree from an accredited college or university
23 with 20 semester hours of biological science and 8 semester
24 hours of chemical science, and successful completion of an
25 accredited cytology laboratory education program.

26 Section 45. Temporary license.

27 (a) Licensure applicants that qualify by education,
28 experience, or training but have not taken or passed an
29 approved nationally recognized certification examination may
30 be granted a temporary license that will allow that individual
31 to engage in the practice of clinical laboratory science at the
32 appropriate level. The temporary license will be valid for 6
33 months and can be renewed twice upon failure to pass an
34 approved nationally recognized certification examination.

35 (b) Internationally trained licensure applicants must have

1 their transcripts evaluated by a transcript evaluation agency
2 acceptable to the Department and submitted directly to the
3 national certifying agency. The evaluation must indicate that
4 the applicant's education is equivalent to that which is
5 required for licensure of U.S. graduates in the level of
6 licensure being sought. Upon submission of proof to the
7 Department of acceptance to sit for the certification
8 examination the individual may apply for a temporary license in
9 the corresponding category.

10 Section 50. Waiver of requirements. The Department of
11 Financial and Professional Regulation shall adopt rules
12 providing procedures for waiver of the requirements under
13 Section 40 for all applicants who hold a valid license or
14 equivalent issued by another state if the requirements under
15 which that license or equivalent was issued are equivalent to
16 or exceed the standards required by this Act.

17 Section 55. Licensure application procedures.

18 (a) Licensure applicants shall submit their application
19 for licensure to the Department upon the forms prescribed and
20 furnished by the Department and shall pay the designated
21 application fee.

22 (b) Upon receipt of an application and payment of a fee,
23 the Department shall issue a license for a clinical laboratory
24 scientist or medical technologist, categorical technologist,
25 clinical laboratory technician or medical laboratory
26 technician, or cytotechnologist, to any person who meets the
27 qualifications specified in this Act and the rules adopted
28 pursuant to this Act.

29 Section 60. Licensure renewal.

30 (a) A license issued under this Act shall expire 2 years
31 after receipt.

32 (b) Every person licensed under this Act shall be issued a
33 renewal license upon (i) submission of an application for

1 renewal on a form prescribed by the Department and payment of
2 an appropriate fee determined by the Department and (ii) proof
3 of completion, in the period since the license was first issued
4 or last renewed, of at least 24 hours of continuing education
5 courses, clinics, lectures, training programs, seminars, or
6 other programs related to clinical laboratory practice that are
7 approved or accepted by the Board or proof of recertification
8 by a national accrediting organization that mandates an annual
9 minimum of 12 hours of continuing education.

10 (c) The Department may require other such evidence of
11 competency as it shall deem reasonably appropriate as a
12 prerequisite to the renewal of any license provided for in this
13 Act, so long as the requirements are uniform as to application,
14 are reasonably related to the measurement of qualification,
15 performance, or competence, and are desirable and necessary for
16 the protection of the public health.

17 Section 65. Disciplinary grounds.

18 (a) The Department may refuse to issue or renew or revoke a
19 license, may suspend, place on probation, censure, or reprimand
20 a licensee, or may take such other disciplinary action as the
21 Department may deem appropriate, including the imposition of a
22 civil penalty not to exceed \$5,000 for conduct that may result
23 from but not necessarily be limited to any of the following:

24 (1) A material misstatement in furnishing information
25 to the Department.

26 (2) A violation or negligent or intentional disregard
27 of this Act or the rules adopted pursuant to this Act.

28 (3) A conviction of any crime under the laws of the
29 United States or any state or territory thereof which is a
30 felony or a misdemeanor, an essential element of which is
31 dishonesty or of any crime which is directly related to the
32 practice of the profession.

33 (4) Making any misrepresentation for the purpose of
34 obtaining registration or violating any provision of this
35 Act.

1 (5) Professional incompetence.

2 (6) Malpractice.

3 (7) Failing to provide information in response to a
4 written request made by the Department within 60 days after
5 receipt of the request.

6 (8) Discipline by another state, territory, or country
7 if at least one of the grounds for the discipline is the
8 same or substantially equivalent to those set forth in this
9 Act.

10 (9) Directly or indirectly giving to or receiving from
11 any person, firm, corporation, partnership, or association
12 any fee, commission, rebate, or other form of compensation
13 for any professional services not actually rendered.

14 (10) A finding by the Department that the licensee,
15 after having his license placed on probationary status, has
16 violated the terms of probation.

17 (11) Wilfully making or filing false records or reports
18 in his or her practice, including but not limited to, false
19 records filed with State agencies or departments.

20 (12) Violation of any standard of professional conduct
21 adopted by the Department.

22 (13) Engaging in dishonorable, unethical, or
23 unprofessional conduct of a character likely to deceive,
24 defraud, or harm the public.

25 (14) Providing professional services while mentally
26 incompetent or under the influence of alcohol or narcotic
27 or controlled dangerous substance that is in excess of
28 therapeutic amounts or without valid medical indication.

29 (15) Directly or indirectly contracting to perform
30 clinical laboratory tests in a manner that offers or
31 implies an offer of rebate, fee-splitting inducements or
32 arrangements, or other remuneration.

33 (16) Aiding or assisting another person in violating
34 any provision of this Act or any rule adopted pursuant to
35 this Act.

36 (b) The determination by a circuit court that a licensee is

1 subject to involuntary admission or judicial admission as
2 provided in the Mental Health and Developmental Disabilities
3 Code operates as an automatic suspension. Such suspension will
4 terminate only upon a finding by a court that the patient is no
5 longer subject to involuntary admission or judicial admission
6 and the issuance of an order so finding and discharging the
7 patient, and upon the recommendation of the Board to the
8 Secretary that the registrant be allowed to resume practice.

9 (c) The Department may refuse to issue or may suspend the
10 registration of any person who fails to file a return, to pay
11 the tax, penalty, or interest shown in a filed return, or any
12 final assessment of tax, penalty, or interest, as required by
13 any tax Act administered by the Illinois Department of Revenue,
14 until such time as the requirements of such tax Act are
15 satisfied.

16 Section 70. Injunction; cease and desist order.

17 (a) If any person violates a provision of the Act, the
18 Secretary may, in the name of the People of the State of
19 Illinois, through the Attorney General of the State of
20 Illinois, petition for an order enjoining such violation or for
21 an order enforcing compliance with the Act. Upon the filing of
22 a verified petition in such court, the court may issue a
23 temporary restraining order, without notice or bond, and may
24 preliminarily and permanently enjoin such violation, and if it
25 is established that such person has violated or is violating
26 this injunction, the Court may punish the offender for contempt
27 of court. Proceedings under this Section shall be in addition
28 to, and not in lieu of, all other remedies and penalties
29 provided by the Act.

30 (b) If any person shall practice as a clinical laboratory
31 practitioner or hold himself out as such without having a valid
32 license required under this Act, then any licensee, any
33 interested party, or any person injured thereby may, in
34 addition to the Secretary, petition for relief as provided in
35 subsection (a) of the Section.

1 (c) Whenever in the opinion of the Department any person
2 violates any provision of the Act, the Department may issue a
3 rule to show cause why an order to cease and desist should not
4 be entered against him. The rule shall clearly set forth the
5 grounds relied upon by the Department and shall provide a
6 period of 7 days from the date of the rule to file an answer to
7 the satisfaction of the Department. Failure to answer to the
8 satisfaction of the Department shall cause an order to cease
9 and desist to be issued.

10 Section 75. Investigations. The Department may
11 investigate the actions of any applicant or of any person or
12 persons holding or claiming to hold a license to engage in the
13 practice of clinical laboratory science. Before refusing to
14 issue or renew a license, the Department shall notify in
15 writing the applicant or holder of the nature of the charges
16 and that a hearing will be held on the date designated. Such
17 notice shall be sent at least 10 calendar days prior to the
18 date set for the hearing. Such written notice may be served by
19 personal delivery or certified or registered mail to the
20 respondent at the address of his last notification to the
21 Department. At the time and place fixed in the notice, the
22 Board shall proceed to hear the charges and the parties or
23 their counsel shall be accorded ample opportunity to present
24 such statements, testimony, evidence, and argument as may be
25 pertinent to the charges or to the defense thereto. The Board
26 may continue such hearing.

27 Section 80. Record of proceedings. The Department, at its
28 expense, shall preserve a record of all proceedings at the
29 formal hearing of any case involving the refusal to issue or
30 renew a license. The notice of hearing, complaint and all other
31 documents in the nature of pleadings and written motions filed
32 in the proceedings, the transcript of testimony, the report of
33 the Board, and orders of the Department shall be the record of
34 such proceedings.

1 Section 85. Compel witnesses. Any circuit court may, upon
2 application of the Department or its designee, or of the
3 applicant or licensee against whom proceedings under Section 70
4 of the Act are pending, enter an order requiring the attendance
5 of witnesses and their testimony, and the production of
6 documents, papers, files, books, and records in connection with
7 any hearing or investigation. The court may compel obedience to
8 its order by proceedings for contempt.

9 Section 90. Findings of fact, conclusions of law, and
10 recommendations. At the conclusion of the hearing, the Board
11 shall present to the Secretary a written report of its findings
12 and recommendations. The report shall contain a finding whether
13 or not the accused person violated this Act or failed to comply
14 with the conditions required in this Act. The Board shall
15 specify the nature of the violation or failure to comply, and
16 shall make its recommendations to the Secretary.

17 The report of findings of fact, conclusions of law, and
18 recommendations of the Board shall be the basis for the
19 Department's order for refusal or for the granting of a license
20 or for other disciplinary action. If the Secretary disagrees in
21 any regard with the report of the Board, the Secretary may
22 issue an order in contravention thereof. The Secretary shall
23 provide a written report to the Board on any deviation and
24 shall specify with particularity the reasons for such action in
25 the final order. The finding is not admissible in evidence
26 against the person in a criminal prosecution brought for the
27 violation of this Act, but the hearing and finding are not a
28 bar to a criminal prosecution brought for the violation of this
29 Act.

30 Section 95. Motion for rehearing. In any case involving
31 the refusal to issue or renew a license or to discipline a
32 licensee, a copy of the Board's report shall be served upon the
33 respondent by the Department, either personally or as provided

1 in this Act for the service of the notice of hearing. Within 20
2 calendar days after such service, the respondent may present to
3 the Department a motion in writing for a rehearing, which
4 motion shall specify the particular grounds therefor. If no
5 motion for rehearing is filed, then upon the expiration of the
6 time specified for filing such a motion, or if a motion for
7 rehearing is denied, then upon such denial the Secretary may
8 enter an order in accordance with recommendations of the Board,
9 except as provided for in Section 85. If the respondent shall
10 order from the reporting service, and pay for a transcript of
11 the record within the time for filing a motion for rehearing,
12 the 20 calendar day period within which such a motion may be
13 filed shall commence upon the delivery of the transcript to the
14 respondent.

15 Section 100. Rehearing. Whenever the Secretary is not
16 satisfied that substantial justice has been done in the
17 revocation, suspension, or refusal to issue or renew a license,
18 the Secretary may order a rehearing by the same or other
19 examiners.

20 Section 105. Hearing officer. The Secretary shall have the
21 authority to appoint any attorney duly licensed to practice law
22 in the State of Illinois to serve as the hearing officer in any
23 action or refusal to issue or renew a license or discipline a
24 licensee. The Secretary shall notify the Board of any such
25 appointment. The hearing officer shall have full authority to
26 conduct the hearing. The hearing officer shall report his
27 finding of fact, conclusions of law, and recommendations to the
28 Board and the Secretary. The Board shall have 60 days from
29 receipt of the report to review the report of the hearing
30 officer and present its own findings of fact, conclusions of
31 law, and recommendations to the Secretary. If the Board fails
32 to present its report within the 60 day period, the Secretary
33 shall issue an order based on the report of the hearing
34 officer. If the Secretary disagrees in any regard with the

1 report of the Board or hearing officer, he or she may issue an
2 order in contravention thereof. The Secretary shall provide a
3 written explanation to the Board of any such deviation and
4 shall specify with particularity the reasons for such action in
5 the final order. At least 2 licensed clinical laboratory
6 practitioner members of the Board shall be present at all
7 formal hearings on the merits of complaints brought under the
8 provisions of this Act.

9 Section 110. Prima facie proof. An order or a certified
10 copy thereof, over the seal of the Department and purporting to
11 be signed by the Secretary, shall be prima facie proof that:

- 12 (1) the signature is the genuine signature of the
13 Secretary;
14 (2) the Secretary is duly appointed and qualified; and
15 (3) the Board and its members are qualified to act.

16 Section 115. Restoration. At any time after the suspension
17 or revocation of any license, the Department may restore the
18 license to the accused person, upon the written recommendation
19 of the Board, unless after an investigation and a hearing, the
20 Board determines that restoration is not in the public
21 interest.

22 Section 120. Surrender of license. Upon the revocation or
23 suspension of any license, the licensee shall forthwith
24 surrender the license to the Department, and if the licensee
25 fails to do so, the Department shall have the right to seize
26 the license.

27 Section 125. Temporary suspension. The Secretary may
28 temporarily suspend the license of a clinical laboratory
29 practitioner without a hearing, simultaneously with the
30 institution of proceedings for a hearing as provided in Section
31 70 of this Act, if the Secretary finds that evidence in his or
32 her possession indicates that a clinical laboratory

1 practitioner's continuation in practice would constitute an
2 imminent danger to the public. In the event that the Secretary
3 suspends temporarily the license of a clinical laboratory
4 practitioner without a hearing, a hearing by the Board must be
5 held within 30 calendar days after such suspension has
6 occurred.

7 Section 130. Judicial review. All final administrative
8 decisions of the Department are subject to judicial review
9 pursuant to the provisions of the Administrative Review Law and
10 all rules adopted pursuant thereto. The term "administrative
11 decision" is defined as in Section 3-101 of the Administrative
12 Review Law. Proceedings for judicial review shall be commenced
13 in the circuit court of the county in which the party applying
14 for review resides. If the party is not a resident of this
15 State, the venue shall be in Sangamon County.

16 Section 135. Certification of record. The Department shall
17 not be required to certify any record to the court or file any
18 answer in court or otherwise appear in any court in a judicial
19 review proceeding, unless there is filed in the court, with the
20 complaint, a receipt from the Department acknowledging payment
21 of the costs of furnishing and certifying the record, which
22 costs shall be computed at the actual cost per page of such
23 record. Failure on the part of the plaintiff to file such
24 receipt in court shall be grounds for dismissal of the action.

25 Section 140. Criminal penalties. Any person who is found
26 to have violated any provision of the Act is guilty of a Class
27 A misdemeanor for the first offense, and a Class 4 felony for
28 second and subsequent offenses.

29 Section 145. Illinois Administrative Procedure Act. The
30 Illinois Administrative Procedure Act is hereby expressly
31 adopted and incorporated herein as if all of the provisions of
32 such Act were included in this Act, except that the provision

1 of paragraph (d) of Section 10-65 of The Illinois
2 Administrative Procedure Act, which provides that at hearings
3 the licensee has the right to show compliance with all lawful
4 requirements for retention, continuation, or renewal of the
5 license is specifically excluded. For the purpose of this Act,
6 the notice required under Section 10-25 of The Illinois
7 Administrative Procedure Act is deemed sufficient when mailed
8 to the last know address of a party.

9 Section 150. Home rule. The regulation and licensing of
10 clinical laboratory practitioners are exclusive powers and
11 functions of the State. A unit of local government, including
12 home rule units, may not regulate or license clinical
13 laboratory practitioners. This Section is a denial and
14 limitation under subsection (h) of Section 6 of Article VII of
15 the Illinois Constitution.

16 Section 997. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute on Statutes.

18 Section 999. Effective date. This Act takes effect upon
19 becoming law.